



DATE: July 13, 2000

STATE MINING AND GEOLOGY BOARD

ADMINISTRATIVE PENALTY APPEAL REVIEW

In the Matter of:
Robert Raney vs. DOC

Case Number: 91-36-0051-99A

OLD HENSHAW QUARRY
California Mine ID No. 91-36-0051

Notice of Violation: Failure to provide a lead agency approved reclamation plan and financial assurance as required by PRC § 2207

Director's Order: Pay an Administrative Penalty in the amount of \$10,000

Past SMGB Actions on this Appeal: None

Considerations of the SMGB:

Public Resources Code § 2774.2(c): *The board may affirm, modify, or set aside, in whole or in part, by its own order, any order of the director setting administrative penalties reviewed by the board pursuant to this section.*

Public Resources Code § 2774.2(d): *Any order of the board issued under subdivision (c) shall become effective upon issuance thereof, unless the operator petitions the superior court for review as provided in subdivision (e).*

Public Resources Code § 671: *The director shall have no power to amend or repeal any order, ruling, or directive of the board.*

The SMGB is to determine the following:

FIRST: Based on evidence presented, are the statements of violations in the Director's Notice substantially true and correct;

SECOND: To the degree the statements of violations in the Director's Notice are true and correct, to what degree, if any, should the SMGB modify the Director's Order.

GENERAL BACKGROUND:

Old Henshaw Quarry is an approximately 45 acre sand mine located in San Bernardino County. The mine has been operated by Raney Construction since at least 1988. In 1992 the mine's reclamation plan and County mining permit expired. The operator had not obtained a new reclamation plan or financial assurance at the time the Administrative Penalty was issued. The Department of Conservation first notified the Operator of the requirement to bring the mine site into SMARA compliance in 1993. On April 26, 1999 the Director of DOC issued a \$10,000 Administrative Penalty against the Operator. The Operator submitted a Petition for appeal of that penalty to the SMGB office on May 23, 1999 (received May 26, 1999). The basis for the appeal is that the Operator, on May 6, 1999 presented a Reclamation Plan Agreement to the County of San Bernardino.